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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)  
MSDI-186/PC365.07

In re Application of: Charles A. Branch et al.

Application No.: 10/698,702

Filed: October 31, 2003

For: INTERBODY FUSION GRAFTS AND INSTRUMENTATION

The owner\*, WARSAW ORTHOPEDIC, INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 09/870,023, filed on May 30, 2001, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

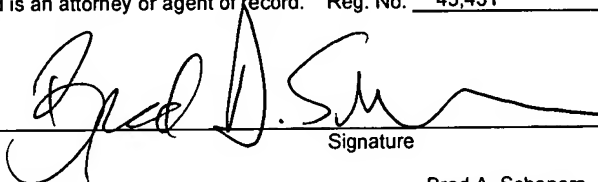
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2. ☒ The undersigned is an attorney or agent of record. Reg. No. 45,431

  
Signature

January 28, 2009  
Date

Brad A. Schepers  
Typed or printed name

(317) 238-6268  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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